

MASSACHUSETTS SMOKE-FREE WORKPLACE LAW

EXECUTIVE SUMMARY

Background:

The Massachusetts Smoke-Free Workplace Law is primarily intended to protect workers from health hazards resulting from exposure to secondhand smoke. Secondhand smoke is a Class A carcinogen as determined by the U.S. Environmental Protection Agency. The Centers for Disease Control and Prevention (CDC) warns people with an increased risk of coronary heart disease or with known coronary artery disease to avoid all indoor environments that permit smoking.

As of July 5, 2004, all workplaces that have one or more employees must be smoke-free. Designated smoking areas or smoking rooms are not permitted. Limited exceptions are noted below.

Section-by-Section Summary:

Section 1 repeals Massachusetts General Law Chapter 270, Sections 21 and 22 of the existing public smoking law.

Section 2 replaces the previous law governing smoking in public places. Key provisions include:

- The employer is responsible for providing a smoke-free environment for all employees working in an enclosed workplace.
- Smoking is prohibited in common work areas, hallways, conference and meeting rooms, offices, employee lounges, restrooms and staircases; auditoriums, theaters, concert halls and convention centers; museums, libraries, schools, colleges and classrooms; restaurants, bars, taverns, food courts and supermarkets; medical facilities, health facilities, child care centers, camps for school age children; public transportation such as trains, planes, taxis, buses, airports, train and bus stations, terminals and enclosed outdoor platforms; and public buildings owned by the commonwealth or a political subdivision, such as a city or town.
- Exemptions where smoking may be permitted if certain conditions are met (please see full text of law for exemption details, conditions and requirements):
 - (1) Private residences, except when the residence is being used to operate a group childcare center, school age day care center, school age day or overnight camp, a health care related office or a facility licensed by the office of child care services;
 - (2) Membership Associations (Private Clubs), defined as non-profit voluntary groups, organized under M.G.L. Chapter 180, while not open to either the public or non-members who are not invited guests;
 - (3) Guest rooms in hotels, motels, or similar accommodations that have been designated as “smoking” rooms;
 - (4) Retail tobacco stores that prohibit entry to anyone under the age of 18;

- (5) “Smoking” or “Cigar” bars that derive a majority of their revenue from tobacco sales and are granted permission to allow smoking from the Department of Revenue;
 - (6) Religious ceremonies where smoking is part of the ritual;
 - (7) Nursing homes and acute care substance abuse treatment centers under the jurisdiction of the commonwealth that have received approval from the local board of health may have a designated smoking area for permanent residents only; and
 - (8) Tobacco laboratories/tobacco testing facilities that conduct medical or scientific research on tobacco smoke.
- Signage is required to indicate where smoking is not permitted or for those areas exempt from the law.
 - Smoking in a place where it is prohibited may result in a \$100 civil fine to the smoker. Employers or business owners may receive fines ranging from \$100 to \$300 for permitting smoking. Local boards of health, municipal governments, the Alcoholic Beverages Control Commission and the Department of Public Health may enforce this law.
 - Cities and towns may have local laws that are stricter than this law.

Section 3 allows one-time tax credits for corporations that purchased and installed “smoking accommodations” to real property. In order to qualify for this credit, the “smoking accommodations” must (1) be located in the commonwealth; (2) be depreciable under §167 of the Internal Revenue Code; (3) have been made pursuant to a board of health regulation, city ordinance, town by-law or other municipal provision currently in effect; and (4) have been made after January 1, 2000 and paid for by December 31, 2003.

Section 4 creates a special commission to assist businesses in implementing the new provisions. The commission will make a final report to both the Commissioner of Public Health and the Joint Committee on Health Care within 16 months of the state law’s effective date.

Section 5 indicates that the effective date of the new workplace smoking ban is July 5, 2004. The bill includes an emergency preamble that permits the effective date to be less than 90 days after the law’s enactment.

Local Regulation Status:

As of June 1, 2004, 103 cities and towns in Massachusetts have enacted local measures that require restaurants and bars to be smoke-free. Of that number, 71 also require workplaces to be smoke-free. An additional 140 municipalities have enacted measures that limit smoking in restaurants and workplaces. Municipalities may have a local regulation that is stricter than the state law. For information about local regulations, contact the local Board of Health/Health Department.

For additional information, contact the Massachusetts Department of Public Health

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